

ABSTRACT

Endowments Department - Prakasam District - Appeal Petition filed by Sri N.Narayanam Srinivasacharyulu, R/o Nandanavanam Village, Jerugumalli Mandal, Prakasam district - against the orders of RJC Guntur passed in RP. No. 37/2005 - Appeal allowed - Orders - Issued.

REVENUE (ENDOWMENTS.IV) DEPARTMENT

GO.Ms. No. 464,

Dated:17-08-2013.

Read the following:-

1. From Sri N.Narayanam Srinivasacharyulu, Nandanavanam, Appeal Petition dated: 20-11- 2006.
2. Govt. Memo. No. 5440/Endts.IV(1)/2006-1, dt: 02.12.2006.
3. Govt. Memo. No. 5440/Endts.IV(1)/2006-2, dt: 15.12.2006.
4. Govt. Memo. No. 5440/Endts.IV(1)/2006-3, dt. 03.02.2007.
5. From Sri N. Satyanarayana, Advocate for 4th Respondent Stay vacate Petition, Dt: 16.03.2007.
6. Govt. Memo. No. 5440/Endts.IV(1)/2006-4, dt. 22.03..2007
7. Govt. Memo. No. 5440/Endts.IV(1)/2006-5, dt. 15.06.2007.
8. From the RJC, Multi Zone -II, Endowment Dept., Tirupati, Lr.No.1919/2006, Dt. 20.10.2007.
9. Memo filed on behalf of 4th Respondent Dt. 05.12.2007 along with Orders of Hon'ble High Court in WP. No24604/2007.
10. Govt. Memo. No. 5440/Endts.IV(1)/2006-7, Dt. 16.01.2008.
11. From the Counsel for the 4th Respondent Written Arguments submitted on behalf of the 4th Respondent Sri Parankusam Radha Krishnamacharyulu, on Dt. 27.03.2008.
12. From Sri N. Narayanam Srinivasacharyulu, Repn. Dt.19.12.2012 with a copy of DO.Lr.No.1277/M(MAUD)/2012, dt;19.11.2012 and endt. of the Hon'ble Min.(Endts)
13. Telegram No. 54440/Endts.IV/A1/2006, Dt.01.06.2013

ORDER:-

Whereas, in the reference 1st read above Sri N. Narayanam Srinivasacharyulu, R/o Nandanavanam Village, Jerugumalli Mandal, Prakasam District has filed a Appeal Petition before the Government u/s 93 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 against the orders passed by the RJC, Endowments Department, Guntur Zone, in RP.No.37/2005, dated 29.07.2006. The Joint Commissioner, Guntur Zone; Asst. Commissioner, Ongole, Prakasam District; the Executive Officer, Prasanna Venkateswara Swamy Temple, Nandanavanam of Prakasham District and Parankusam Radha Krishnamacharyulu, S/o Late Venkata Seshacharyulu, Nandanavanam Village, Mandal, Prakasam District were made respondents.

2. Whereas, the Petitioner has stated that Sri Prasanna Venkateswara Swamy Devasthanam, Nandanavanam village Jarugumalli (M) Prakasam district has 59.08 acres of land and the said land was divided into five shares. Out of the said land Ac.35.47 cts were given to the Archakas towards service and paditaram as per the compromise orders issued in R.D.S.No.47848/70, dt:11.2.1971 of the CED, As per the said compromise, Archakas share is 3/5 share ie Ac.35.47 ct. All the shareholders viz., Sri N. Seshacharyulu, Sri N. Venkdata Seshacharyulu and Parankusham Rangacharyulu have signed in possession delivery letter, dated 8.4.1971. Sri Parankusam Rangachayulu is attending for the service of the one share of Sri Parankusham family. The family of Narayanam is attending for two shares of service of Narayanam family.

3. Subsequently based on the representation filed by Sri Parankusam Radhakrishnam Charyulu, the Assistant Commissioner, Endowments Department, Ongole passed orders that, Sri N.Srinivasacharyulu and Sri Parankusam Radhakrisnam Charyulu will enjoy the equal shares ie. Six months each. Questioning the said order, Sri Narayanavanam Srinivasacharyulu has filed revision before the Regional Joint Commissioner of Endowments Department, Guntur Zone and the RJC, Guntur Zone, Guntur has passed order dated 29.07.2006 without giving reasonable opportunity of hearing to Sri Narayanam Srinivasa charyulu and confirmed the orders of the A.C Ongole.

4. Aggrieved by the above orders, Sri Narayanam Srinivasacharyulu has filed appeal before the Government, under section 93 of the Act 30/1987 on the following main grounds, seeking direction to set aside the orders of the A.C., Ongole in Rc.No.A4/4740/2003, dated 14.11.2005 and also the orders of the RJC G/Z, Guntur dated 29.07.2006 in RP.No.37/2005 and grant stay of all further proceedings pending disposal of the appeal:

- 1) The orders of the A.C. Ongole and RJCG/Z, Guntur are illegal arbitrary, materially irregular, without any power of authority of jurisdiction against the principles of the case and weight of evidence.
- 2) The respondents ought to have seen that no revisional power is conferred on the A.C. Ongole to set aside the orders of the then A.C who is his predecessor and only alternative remedy to him is to approach the RJC, Guntur Zone, Guntur by filing a revision and not before the A.C. Ongole.
- 3) The respondents ought to have seen that as per the compromise orders passed by the CED, the family of the petitioners are entitled two shares to render Archakatvam service for 8 months and the said orders are binding on all his subordinates and they have no power to pass any orders contrary to the orders of their higher authority.
- 4) The respondents went wrong in not considering the report of the manager of the temple the Resolution of the Trust Board the enquiry report of the Inspector, Endowments Department also the orders of the then Asst. Commissioner of Endowments Department, Ongole.
- 5) The respondents have not at all considered the pleadings and contentions raised by the petitioner and they have not given any reasonable opportunity hearing and they have not even allowed to engage an advocate.
- 6) The petitioner received the orders of the RJC, recently just about 15 days back therefore, this appeal is filed within the period of limitation.
- 7) As on today, the petitioner is in possession and enjoyment of Ac.20.24Cts and taking advantage of the impugned orders, the respondents may take any steps for taking over the possession of the land and they got issued a legal notice and therefore there is an urgency and it is necessary to pass interim orders, suspending the proceedings.

5. Government, after examining the matter, observed that, and in exercise of its revisional powers vested under section 93 of the Endowments Act and all other powers stayed until further orders the orders of the RJC, Guntur Zone, Guntur issued in R.P.No.37/2005, dated 29.07.2006 in Government Memo 2nd read above. The stay vacate petition filed by the 4th Respondent in the reference 4th read above stating that the appellant is abusing the stay order and threatening the 4th Respondent to trespass into the property, there is imminent urgency in the matter has also been examined by the Government and no orders have been passed.

6. Government have posted the matter for hearing and the matter was heard on 02.02.2008 and 06.06.2013.

7. Whereas, the parties and advocates were present on 02.02.2008, advocate for respondents respondent No.4, has submitted oral arguments and subsequently filed written arguments stating that the appellant is misinterpreting the stay order. The 4th Respondent has also filed order of the Writ Petition No.24604/2007, directing the Government to dispose of the appeal within a period of 4 weeks from the date of receipt of copy of order.

8. Whereas, the 4th Respondent in his written arguments filed through the counsel, has stated that the family of Parankusam branch and that of Narayanam Branch were performing Archakatvam service in the said temple by cultivating said land. The forefathers of 4th respondent were performing 8 Months Archakatvam service in a year by cultivating 2/3rd extent of land. While so, disputes arose between Archakas on one hand and the temple authorities on the other hand.

9. It is further stated that as per compromise between the temple authorities and Archakas total land was divided into 5 shares. Two shares were allotted to the temple. Out of remaining 3 shares, 2 shares were being enjoyed by Parankusam Radhakrishnam Charyulu (4th Respondent) and one share by N.Narayanam Srinivasa charuyulu (Appellant). The learned Commissioner of Endowments Hyderabad recorded the proceedings of compromise on 11.02.1971. Since then the appellant was cultivating 1/3rd extent of land and performing Archakatvam service 4 months out of 1year. The 4th Respondent is cultivating 2/3rd extent of land and performing Archakatvam service for 8 months out of one year.

10. The 4th Respondent has cited the following instances showing enjoyment of Archakatvam rights and cultivation of lands:

1. In the suit between the Temple Authorities and Archakas in OS No.375 of 1954 on the file of the court of District Munsif at Kanigiri, father of the appellant herein Narayanam Seshacharyulu gave evidence, wherein he admitted that his family was enjoying one share and that of the 4th respondent was enjoying 2 shares;
2. In the suit filed by the 4th respondent herein OS.No. 30 of 1986 on the file of the court of Principal District Munsif at Kandukur, the appellant herein filed written statement wherein he admitted that his family enjoyed 1/3rd share of Archakatvam and cultivation of lands and the 4th respondent herein was performing 2/3rd share of Archakatvam rights and cultivation of lands.
3. The appellant herein filed a suit OS No. 33 of 2000 on the file of the court of senior civil Judge at Kandukur seeking partition of the lands at half share each as against the 4th respondent, the temple authorities and the Government of Andhra Pradesh. He withdrew that suit knowing well that he could not succeed, in view of the earlier admissions before the Hon'ble courts. He filed an application in I A No. 460 of 2005 for permission to withdraw the suit with liberty to prosecute for relief before the endowment authorities. That permission was rejected by the Learned Judge holding that he was not entitled to the relief.

All these 3 instances were relied on by the Assistant Commissioner and rightly rejected the claim of appellant; and malafides attributed to the statutory authorities are absolutely base less and are not supported by any evidence, pleading and law.

11. The Government, after examining the matter with available record on file, observed that as per the orders of Commissioner on compromise, the share of Archakas is 3/5 share i.e. Ac.35.47 Cts. and all the share holders viz Sri N. Sheshacharyulu, Sri N.Venkata Sesha Charyulu and Parankusham Ranga Charyulu have signed and agreed for equal share. Hence any subsequent re-division by the subordinate authority to the commissioner, Endowments is invalid. Accordingly, the appeal petition of Sri N. SeshaCharyulu is allowed and the orders of the Assistant Commissioner, Ongole in Rc.No.A4/4740/2003, Dated 14.11.2005 and orders of the Regional Joint Commissioner, MZ-1, Kakinada dated 29.07.2006 in R.P. No. 37/2005 are cancelled.

12. Accordingly the Revision petition is disposed off. The Commissioner, Endowments Department, Hyderabad shall take further necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

VINOD K.AGARWAL,
PRINCIPAL SECRETARY TO GOVERNMENT (FAC).

To
Sri N. Narayanam Srinivasacharyulu R/o Nandanavanam Village, Jerugumalli
Mandal, Prakasam District.
The Regional Joint Commissioner, Endowments Department, Tirupathi.
The Asst. Commissioner, Endowments Department, Ongole, Prakasam
(with encls / Original records pertaining to file No.A4/4740/2002 along with
Containing CF 116; NF 2, + S-2 Total 120)
The Executive Officer,
Prasanna Venkateswara Swamy Temple, Nandanavanam Jarugumalli (Mandal)
Prakasam District.
Sri Parankusam Radhakrisnam Charyulu,
S/o Late Venkata Sshacharyulu, Nandanavanam Village,
Mandal, Prakasam District

Copy to :-

The commissioner of Endowments department, Hyderabad.
The Deputy Commissioner, Endowments Department, Guntur District.
OSD to Minister for Endowments.
PS to Prl.Secy., to Government (Endowments).
SF/SC.

//FORWARDED :: BY ORDER//

SECTION OFFICER.